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Report of the Secretary-General pursuant to Security Council resolution 1897 (2009)

I. Introduction

1. The present report is submitted pursuant to paragraph 17 of Security Council resolution 1897 (2009) of 30 November 2009, in which the Council requested me to report on the implementation of that resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia. The report updates the assessment contained in my report of 13 November 2009 (S/2009/590), submitted pursuant to Security Council resolution 1846 (2008), and is based on information received as at 11 October 2010.

2. As in my previous report, the following assessment and recommendations are based on information provided to me by Member States and regional organizations in conformity with paragraph 16 of resolutions 1846 (2008) and 1897 (2009). Information was provided by Belgium, Bosnia and Herzegovina, Brazil, the Czech Republic, Denmark, Egypt, Germany, Greece, Italy, Japan, Lithuania, Malta, New Zealand, Oman, the Philippines, Portugal, the Republic of Korea, Seychelles, Spain, the United Kingdom of Great Britain and Northern Ireland, the European Union, the League of Arab States and the North Atlantic Treaty Organization (NATO). The following shipping and related organizations also provided information: the Baltic and International Maritime Council (BIMCO), the International Association of Independent Tanker Owners (INTERTANKO), the International Chamber of Shipping and the International Shipping Federation. Consultations have also been undertaken within the United Nations system as well as with the International Criminal Police Organization (INTERPOL) and the Somalia-Eritrea Monitoring Group established pursuant to resolution 1916 (2010).

3. The present report considers the situation of piracy and examines the political, legal and operational activities that have been undertaken by Member States, regional organizations and the United Nations and its partners in the fight against piracy and armed robbery at sea off the coast of Somalia. It concludes with observations on the impact of the strengthened international naval presence in the region, which has made progress in containing the threat of piracy. It suggests that much more needs to be done, notably to address the root causes of the problem by restoring stability and the rule of law in Somalia. Counter-piracy efforts should be part of the overall strategy of the Djibouti Peace Agreement and contribute to a long-term solution for the country.

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II. Reported incidents of piracy off the coast of Somalia

4. Reports by the International Maritime Organization (IMO) indicate that in the first nine months of 2010, there were 164 attacks against ships in the waters off the coast of Somalia, resulting in the hijacking of 37 ships. The majority of attacks leading to vessels being hijacked during 2010 — 25 — took place in the Western Indian Ocean. This compares with 193 reported attacks and 33 ships hijacked during the same period in 2009. The reports imply that the level of violence employed by the pirates has increased. The effectiveness of naval disruption operations has also increased. Ships that are fully implementing IMO guidance and industry-developed best management practices are at a significantly lower risk of being hijacked than those not doing so. As at 11 October 2010, 389 people and 18 vessels were being held hostage.

5. The strategy of using military intervention in a graduated manner has proved helpful, but the problem persists. The military presence in the internationally recommended transit corridor in the Gulf of Aden has helped to reduce the number of attacks and actual hijackings. However, pirates are still able to operate there, moving into and out of the Bab-el-Mandeb and the southern end of the Red Sea during the monsoon period and venturing as far out as Maldives during favourable weather. Tightened surveillance and control in the Gulf of Aden has forced the Somali pirates to expand their operations well into the Indian Ocean to more than 1,000 nautical miles off the Somali coast. This eastward and southward shift in piracy has brought a much greater maritime area under threat.

6. During the reporting period, pirate capacities increased with the development of pirate action groups, consisting of a large "mother boat" and two or three attack skiffs towed behind, enabling pirates to carry out attacks far off the coast (up to 1,300 nautical miles) against ever-larger freighters. There is evidence to suggest that some of those committing piracy are also engaged in other criminal activities such as smuggling contraband and trafficking in persons.

7. The plight of the 389 hostages currently held by pirates on Somali territory is of particular concern. They include seafarers from Asia, Africa, the Middle East and Europe, as well as tourists from Western Europe. Many Governments, shipowners and seafarers' associations have been expending great efforts to obtain their release. In this connection, I welcome the assistance provided to some victims and their families following their release. However, we all need to redouble our efforts to ensure the release of the victims still in captivity.

III. Cooperation with the Transitional Federal Government of Somalia and regional administrations

8. In accordance with Security Council resolution 1897 (2009) of 30 November 2009, the authorizations contained in resolutions 1846 (2008) and 1851 (2008) related to counter-piracy activity in the territorial waters off the coast of Somalia and in Somalia were extended. As at 11 October 2010, no additional Member State or regional organization had transmitted advance notification of its cooperation with the Transitional Federal Government of Somalia in the fight against piracy and armed robbery at sea off the coast of Somalia.

9. In January 2010, at a technical meeting on counter-piracy in Kampala, the Transitional Federal Government, "Puntland" and "Somaliland" agreed to establish a three-member technical committee, Somali contact group on counter-piracy, to coordinate the activities of their respective counter-piracy offices. The meeting was convened by the United Nations Political Office for Somalia (UNPOS) and supported by IMO, the United Nations Office on Drugs and Crime, the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations, INTERPOL and the European Police Office (Europol). The group will serve as the national focal point for Somalia as defined in the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden, which was adopted at a meeting convened by IMO in January 2009 and is the central instrument in the development of regional capacity to combat piracy.

10. Further meetings of the Somali contact group on counter-piracy, also known as the "Kampala process", were held in Djibouti, from 3 to 5 February 2010, and in Kampala, from 12 to 16 April 2010. Both meetings were convened and funded by IMO. The technical committee developed terms of reference, communications protocols and standard operating procedures. During a series of three meetings of legal officials from the Transitional Federal Government, "Somaliland" and "Puntland", held in Djibouti and facilitated by the United Nations Office on Drugs and Crime, the three sides agreed on a draft anti-piracy law for Somalia and began working on laws relating to the transfer of prisoners.

11. During the reporting period, the Transitional Federal Government liaison office in Nairobi continued its facilitation role with embassies and naval forces. This, combined with the increasing engagement by "Puntland" and "Somaliland" officials with international navies, has led to greater information-sharing and helped to build confidence. Politicians and religious and community leaders in Somalia have publicly delivered counter-piracy messages, including on the radio, detailing the damaging effects of piracy on society. Both "Puntland" and "Somaliland" have interdicted and arrested pirate suspects and accepted them for trial. Furthermore, building on the August 2009 Gaalkacyo Agreement, the Transitional Federal Government and "Puntland" signed a memorandum of understanding on cooperation on counter-piracy issues in April 2010.

IV. International cooperation to address piracy off the coast of Somalia

12. On 14 May 2010, the General Assembly held an informal meeting on international maritime piracy at which I strongly condemned this scourge and explored options to collaboratively respond to it. The President of the General Assembly concluded that the problem of piracy, if not addressed urgently and effectively, would spiral out of control and lead to further serious global consequences. With regard to Somalia, he said that the discussions had reaffirmed the urgent need for serious and concerted international efforts to bring peace and stability to the country, as piracy was only one symptom of the instability there. The meeting called for stronger and better-coordinated strategies to address the complex root causes of piracy, as part of a comprehensive approach.

13. The Istanbul Conference on Somalia, held from 21 to 23 May 2010, welcomed the various initiatives aimed at supporting the prosecution of suspected pirates. On 23 September 2010, participants in the mini-summit on Somalia held at United Nations Headquarters recognized the challenges posed by piracy and welcomed the commitment shown by the international community and the Transitional Federal Government to address the roots of the problem, in particular through the enhancement of the lives and livelihoods of the affected population and through the efforts of the Contact Group on Piracy off the Coast of Somalia.

14. The International Contact Group on Somalia, on 28 September 2010 in Madrid, called for the implementation of the Kampala framework through joint Somali efforts. The International Contact Group also welcomed the regional efforts made to address the problem as well as the work of international naval forces.

A. Contact Group on Piracy off the Coast of Somalia

15. Pursuant to Security Council resolution 1851 (2008), the Contact Group on Piracy off the Coast of Somalia was established on 14 January 2009 to facilitate discussions and the coordination of actions among States and organizations aimed at countering piracy off the coast of Somalia. In its first communiqué, dated 14 September 2009, the Contact Group indicated that it would report on its progress periodically to the Security Council. As of June 2010, the Group had 53 members.

16. The Contact Group has met six times since its creation. During the reporting period, the group met on 28 January 2010, under the chairmanship of Norway, and on 10 June 2010, under the chairmanship of Greece. The next meeting will take place in New York in November 2010, under the chairmanship of the Republic of Korea.

17. The Contact Group has established four working groups that are open to participation by all its members. The United Kingdom of Great Britain and Northern Ireland chairs Working Group 1, on operational coordination and regional capacity-building, with the support of IMO. Working Group 2, convened by Denmark, focuses on the legal aspects of piracy, with the support of the United Nations Office on Drugs and Crime. Working Group 3 addresses the strengthening of shipping self-awareness and other capabilities, and is convened by the United States of America, with the support of IMO. Egypt convenes Working Group 4, which seeks to improve diplomatic and public information efforts on all aspects of piracy.

18. During the reporting period, Working Group 1 continued to promote effective military coordination among the various naval forces combating piracy off the coast of Somalia. It also facilitated further regional capability development and discussed the possibility of increased land-based options in the region. Working Group 2 has developed a legal "toolbox" of resources and precedents that are available to Member States. It is reviewing the progress made in establishing relevant national legislation, in conducting prosecutions of suspected pirates and in looking at options relating to the transfer of convicted and sentenced pirates as well as the protection of human rights. Working Group 3 has reviewed the progress made in gathering and disseminating lessons learned and in the implementation of internationally recognized best management practices on-board vessels operating off the coast of Somalia. It has developed labour-related guidance in support of crew training and post-event activities. Working Group 4 has agreed that UNPOS should facilitate the implementation of a communications strategy. The strategy's main goals include

deterring Somali participation in piracy; encouraging international support for international counter-piracy operations; promoting the involvement of more stakeholders; and informing the international maritime community about potential risks.

19. The United Nations is an active participant in the Contact Group on Piracy off the Coast of Somalia. The Organization attends its biannual meetings, supports its four working groups through technical expertise and facilitates dialogue among its members.

B. Regional cooperation

20. Sixteen States have now signed the Djibouti Code of Conduct, a regional cooperation agreement aimed at combating piracy through sharing of information, interdiction of vessels, prosecution of persons suspected of piracy, and facilitation of the care of individuals who have been subjected to pirate attacks. IMO has established a project implementation unit to help coordinate and manage capacity-building activities to facilitate the Code's implementation. The activities are being funded by the IMO Djibouti Code Trust Fund, which currently holds about $13.8 million. Projects are currently focusing on the development of three regional counter-piracy information-sharing centres in Dar es Salaam, United Republic of Tanzania; Mombasa, Kenya; and Sana'a, as well as a regional training facility in Djibouti. In addition, IMO has provided regional training on mechanisms for maritime law enforcement, communications and other issues of concern, and assists Member States in bringing national anti-piracy legislation into line with the Djibouti Code of Conduct.

21. During the period under review, the Common Market for Eastern and Southern Africa (COMESA), the Intergovernmental Authority on Development, the Indian Ocean Commission, the League of Arab States, the Organization of the Islamic Conference and the Southern African Development Community kept the issues addressed in the present report on their agenda.

22. Momentum in favour of a regional action plan increased after Seychelles hosted a regional ministerial conference on piracy on 21 May 2010, an international symposium on maritime security on 12 and 13 July, and a technical workshop on 19 and 20 July on piracy in the Western Indian Ocean. The Indian Ocean Commission, as current chair of the Interregional Coordination Committee in the region, will take the lead in liaising with all the participating regional economic communities in the framework of the initial implementation of the regional action plan until it is validated by all States and organizations involved. COMESA endorsed the process of developing the regional anti-piracy plan at its fourteenth summit, held on 1 September 2010.

23. The second regional ministerial conference on piracy, held in Mauritius on 7 October 2010, adopted a regional strategy that provides for a regional framework to prevent and combat piracy and promote maritime security. The ministers also adopted a rolling regional plan of action underpinning the regional strategy, which encompasses the exchange of information, cooperation, joint action and capacity-building as cross-cutting principles.

C. Naval activities off the coast of Somalia

24. During the reporting period, the three multinational maritime coalition forces contributing to the fight against piracy off the coast of Somalia have maintained their critical presence in the region. The European Union Naval Force's (EU NAVFOR) Operation Atalanta, the NATO Operation Ocean Shield and the Combined Maritime Forces' Combined Taskforce 151 (CTF-151) continue to patrol the Gulf of Aden and the waters off the coast of Somalia. They provide escorts for commercial vessels and those commissioned by the United Nations to deliver logistical support for the African Union Mission in Somalia (AMISOM) and humanitarian assistance to Somalia. In addition, several Member States have independently deployed naval military assets in the region as part of the international counter-piracy effort, some of which are coordinated with the multinational coalitions.

European Union

25. The European Union's first naval operation, Atalanta, continues to play an instrumental role in the international community's efforts to deter, prevent and repress piracy and armed robbery at sea off the coast of Somalia. Since it commenced operational activities at the end of 2008, Operation Atalanta has successfully disrupted more than 60 attacks. States members of the European Union and contributing non-European Union States have deployed naval assets comprising more than 45 vessels and aircraft and 1,800 personnel as part of the operation or to supplement the team at the European Union operational headquarters.

26. Operation Atalanta operates in a zone comprising the Gulf of Aden and part of the Indian Ocean, including Seychelles, and has recently expanded to cover an area further east in the Indian Ocean. One focus of Operation Atalanta is the protection of vessels of the World Food Programme (WFP), as well as of the sea-based shipping of the United Nations Support Office for the African Union Mission in Somalia (UNSOA).

North Atlantic Treaty Organization

27. NATO is contributing, through Operation Ocean Shield, to the international community's efforts to fight piracy off the Somali coast. The initiative comprises five NATO vessels that patrol the waters off the coast of the Horn of Africa and along the internationally recommended transit corridor. Moreover, as part of Operation Ocean Shield, NATO is exploring its possible contribution to capacity-building to assist regional States, upon their request, in the development of their own ability to combat piracy in full complementarity with existing international efforts.

28. During the reporting period, NATO successfully disrupted 148 pirate attacks. NATO routinely provides, on average, at least a third of the warships securing the internationally recommended transit corridor in the Gulf of Aden. Moreover, NATO is undertaking, on a rotational basis, the role of coordinator of the internationally recommended transit corridor in the Gulf of Aden, and NATO warships will assume coordination of operations in the Somali Basin for six months beginning in December 2010. The North Atlantic Council has also authorized the escorting of United Nations chartered vessels up to the harbour entrance of Mogadishu.

Combined Maritime Forces

29. As noted in my previous report, the Combined Maritime Forces are a United States-led international naval coalition of 25 nations that conducts integrated and coordinated operations in the Gulf of Aden, the Gulf of Oman, the Arabian Sea, the Arabian Gulf, the Red Sea and parts of the Indian Ocean. The Combined Maritime Forces are made up of three distinct Task Forces; CTF-150, CTF-151 and CTF-152. The Forces conduct counter-piracy operations through CTF-151, while CTF-150 and CTF-152 conduct maritime security operations and counter-terrorism operations and aid in the building of regional capacity in the area of operations. During the reporting period, the Combined Maritime Forces, through CTF-151, successfully deterred multiple pirate attacks, rescued a motor vessel with pirates aboard, responded to emergency calls from vessels in distress and seized large quantities of contraband, including weapons, drugs and related paraphernalia. In addition, CTF-151 played a critical role in encouraging and implementing tactical "deconfliction" between all ships and Member States operating in the Gulf of Aden. During the reporting period, CTF-151 served as coordinator for the internationally recommended transit corridor and currently serves as Somali Basin coordinator. The Combined Maritime Forces hosted the Somali Basin planning conference in June 2010 and formulated a joint plan to combat piracy during the late 2010 monsoon transition period. Combined Maritime Forces continue to work with other Member States to improve military coordination through the Shared Awareness and Deconfliction group led by the Forces, EU NAVFOR and NATO.

Additional efforts by Member States

30. The efforts made by the multinational coalition forces are complemented by the individual activities conducted by Member States off the coast of Somalia. China, India, the Islamic Republic of Iran, Japan, Malaysia, the Republic of Korea, Saudi Arabia and Yemen all have deployed naval ships and/or aircraft to combat piracy in the region. In varying degrees of coordination with the coalition forces, their vessels have escorted hundreds of merchant ships; provided close protection for designated merchant vessels, including for vessels released by pirates; conducted rescue operations for vessels in distress; and confiscated large quantities of weapons and other contraband.

Coordination of military and civil-military initiatives

31. There are several mechanisms in place to coordinate the activities of the military naval assets off the coast of Somalia. During the reporting period, the Shared Awareness and Deconfliction group, led by the Combined Maritime Forces, NATO and the European Union Naval Force, has expanded to include officers from littoral and other Member States. At the group's last meeting, on 21 September 2010, more than 30 Member States were represented, together with three coalitions and representatives of industry.

32. Civil-military coordination is a key element of the strategy to protect global maritime trade transiting in the waters off the coast of Somalia. The primary mechanism for protecting merchant vessels transiting through the Gulf of Aden remains the collaboration between industry and the naval presence through the use of the internationally recommended transit corridor, as endorsed by IMO in July

2009. This enables preregistered commercial traffic to transit through high-risk seas at appropriate times, protected by the naval assets patrolling in the region.

33. Beyond those efforts, there is a need to expand and formalize the mechanism whereby information obtained by military assets at sea is effectively collected and made readily available to various law-enforcement and judicial bodies, such as the Monitoring Group on Somalia and INTERPOL, for investigative and prosecutorial purposes. IMO, INTERPOL and industry groups are currently developing guidance for seafarers on the collection of evidence and the preservation of crime scenes following acts of piracy.

D. Legal issues, including human rights considerations

34. In its resolution 1918 (2010) of 27 April 2010, the Security Council reaffirmed that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities. The Council has also made numerous references in its resolutions to the applicability of international human rights law in the context of piracy off the coast of Somalia. It is important that human rights considerations continue to guide the actions of States in all phases of counter-piracy operations, including the apprehension, detention and prosecution of suspected pirates, as well as the imprisonment of convicted pirates. International human rights law in the context of the repression of piracy was one of the issues discussed at the fifth meeting of Working Group 2 of the Contact Group on Piracy off the Coast of Somalia, held in May 2010. At the request of the Chair of the Working Group, the Office of Legal Affairs presented a non-paper on applicable international human rights law at that meeting.

35. It is disheartening that the recruitment of children into pirate groups that operate off the "Puntland" coast continues, with 10 cases recorded by monitors in January and February 2010. During 2010, several cases have been documented involving children who escaped from Al Shabaab and joined pirate groups in "Puntland" and southern and central Somalia.

36. The Security Council, in its resolution 1918 (2010), also affirmed that the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermine the anti-piracy efforts of the international community. As I indicated in my report of 26 July 2010 (S/2010/394), prosecutions of acts of piracy have been conducted in 10 States: France, Germany, Kenya, Maldives, the Netherlands, Seychelles, Somalia (in the "Somaliland" and "Puntland" regions), Spain, the United States of America and Yemen.[1] Although an increasing number of States, within and outside the region, are undertaking prosecutions, it has been reported that there have been incidents in which suspected pirates have been released without having been brought to justice.[2] The United Nations, through the work of the United Nations Office on Drugs and Crime and other entities, is assisting States willing to undertake prosecutions to build the necessary capacity, including through the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia.

[1] See S/2010/394, para. 19.

[2] Ibid., para. 20.

37. In its resolution 1918 (2010), the Security Council requested me to submit a report on possible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia, including, in particular, options for creating special domestic chambers possibly with international components, a regional tribunal or an international tribunal and corresponding imprisonment arrangements, taking into account the work of the Contact Group on Piracy off the Coast of Somalia, the existing practice in establishing international and mixed tribunals, and the time and resources necessary to achieve and sustain substantive results. In response to that request, I prepared a report (S/2010/394) that identified seven options for the Council to consider.

38. The Security Council considered that report on 25 August 2010. During the debate, the international legal framework applicable to piracy was outlined, and the seven options were presented in detail. The Council issued a presidential statement (S/PRST/2010/16) in which it requested me to include in the present report any new information and observations, taking into account the work of the Contact Group, on possible ways to advance the ongoing cooperation, including with States in the region, in prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia.

39. In order to identify any additional steps that could be taken to achieve and sustain substantive results in the prosecution of piracy, I appointed Mr. Jack Lang of France on 25 August 2010 to serve as my Special Adviser on legal issues related to piracy off the coast of Somalia. He is working closely with the Office of Legal Affairs, the Department of Political Affairs and UNPOS.

40. Recent developments following the above-mentioned report have included discussions, which are at an advanced stage, between Mauritius and the European Union on a possible arrangement for the transfer of suspected pirates. In relation to prison transfer issues, the Chair of the Contact Group's Working Group 2 on legal issues and the United Nations Office on Drugs and Crime have been facilitating discussions between Seychelles and the Somali authorities, including the Transitional Federal Government and the authorities of the regions of "Puntland" and "Somaliland". These discussions have highlighted the importance of finding long-term imprisonment arrangements, ideally in Somalia, for convicted pirates.

41. The Security Council, in its resolution 1918 (2010), has noted with concern that the domestic law of a number of States lacked provisions criminalizing piracy and/or procedural provisions for effective criminal prosecution of suspected pirates, and called on all States, including States in the region, to criminalize piracy under their domestic law and favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, consistent with applicable international human rights law. Belgium, Japan and Seychelles each reported that they had recently adopted new legislation on piracy. The United Nations Office on Drugs and Crime has provided assistance to States in the region in the review and updating of their counter-piracy legislation. Other United Nations entities, including IMO and UNDP, also stand ready to provide assistance to States in the review and updating of such legislation. For example, UNDP collaborated with the Office in a review of counter-piracy legislation in Somalia. The drafts are currently awaiting approval by the respective competent authorities.

42. The Office of Legal Affairs, IMO and the United Nations Office on Drugs and Crime are continuing to cooperate in the compilation of national legislation on

piracy, to be made publicly available, as a resource for States. Links to national legislation and other information provided by Member States to the Secretariat are available on the website of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs.[3]

43. UNDP has continued to provide assistance and capacity-building to the police in Somalia, including in "Puntland" and "Somaliland". In addition, it has supported a comprehensive judicial programme throughout Somalia. The UNDP legal assistance programme expanded to include all regions in "Somaliland", "Puntland" and districts in Mogadishu controlled by the Transitional Federal Government. Additional assistance is being mobilized so as to ensure legal representation and due process for all those arrested on piracy-related offences.

E. Strengthening regional maritime and law-enforcement capacity

44. The prosecution of pirates has presented a formidable challenge not only for Somalia and its neighbours, but also for the broader international community. First, as I pointed out earlier, many countries have considerable lacunae in their domestic law regarding the issue of piracy. Secondly, investigations, information-sharing, and the finding and keeping of witnesses for the duration of a trial, most of whom are seafarers who change ships and companies regularly, are difficult tasks. Thirdly, the reluctance of States to provide long-term imprisonment options, rather than the lack of States willing to prosecute, has become a major constraint on piracy prosecutions. Fourthly, international networks for financing maritime piracy need to be interrupted.

45. I applaud the valiant efforts made by Member States to prosecute the pirates transferred to them by naval forces. International criminal police organizations such as INTERPOL believe that behind the majority of those prosecuted are sophisticated criminal networks, or series of networks, that are profiting from piracy. Without a concerted and targeted effort to dismantle such networks, their leadership and those that provide them with material support, we are likely to see a continuation of these attacks. It will take proactive investigations, robust analysis and increased information-sharing among Member States prosecuting such cases to identify and destroy the networks.

46. The maritime environment poses unique difficulties for the collection of evidence, with international navies often acting as the initial crime scene investigator. The piracy-related data collected by those naval forces can help increase the likelihood of successful future prosecution, especially of the leaders and networks financing and profiting from such piracy attacks. Regional initiatives to combat maritime piracy can play a key role in this respect, notably the IMO Djibouti Code of Conduct and the European Union-supported regional action plan to combat maritime piracy in East Africa and the Western Indian Ocean.

47. Multiple nations may be involved in a single piracy case. The crews of merchant vessels are often multinational, and vessels may be flagged, owned and operated by different countries. The pirates and the navy that has captured them are likely to be from countries other than the State willing to investigate and prosecute

[3] See www.un.org/Depts/los.

the case. This makes information-sharing and coordination between the military, law enforcement and judicial bodies crucial.

48. INTERPOL and Europol have entered into an agreement for a joint INTERPOL-Europol global police initiative to combat the threats posed by piracy in the Gulf of Aden. This includes the sharing and analysis of piracy-related evidence and data. This partnership has helped to identify links between investigations in Europe and Africa. An analysis work file on maritime piracy was established that focuses on organized-crime structures and financial activities linked to maritime piracy.

49. Efforts are under way to interrupt international networks of maritime piracy financing, including through the Financial Intelligence Units in East Africa and the Western Indian Ocean. In addition, the Financial Action Task Force on Money Laundering, a 34-member intergovernmental body set up in 1989 by the Group of Seven to create global policies and a framework to combat money-laundering and terror financing, has begun to focus on the issue through a project on maritime piracy and related kidnapping for ransom.

50. The United Nations system is supporting regional maritime, law-enforcement and prosecution capacity. The United Nations Office on Drugs and Crime is providing support to Kenya and Seychelles, including through the provision of legislative assistance, support and capacity-building for law enforcement, prosecutors and the judiciary. Trials of piracy suspects have been supported through the facilitation of witness attendance and the assurance of interpretation and defence counsel for unrepresented accused. The United Nations Office on Drugs and Crime has provided capacity-building to prison staff and management and improved conditions in prisons in Kenya and Seychelles. Kenya has convicted 25 persons of piracy, and another 98 are currently on trial. In Seychelles, 21 suspected pirates are currently on trial, and 11 persons were convicted of piracy in July 2010.

51. Mauritius has indicated its willingness to accept the transfer of suspected pirates for prosecution, contingent on the provision of support by the international community. The United Nations Office on Drugs and Crime is providing support to the Maldives in its efforts to counter piracy.

52. Discussions with Maldives, Mauritius and Seychelles and other States of the region have revealed a willingness to detain piracy suspects for trials but also a reluctance or refusal to hold them in national prisons once their appeals are complete. The long sentences that have been imposed in recent convictions — from 5 to 20 years — are becoming a compelling disincentive for regional States to continue to prosecute pirates. The lack of long-term imprisonment options, rather than the unwillingness of States to prosecute, is currently the major constraint on piracy prosecutions. No State in the region (other than Somalia) has expressed an interest in hosting a long-term detention facility for convicted Somali pirates.

53. The "Puntland" authorities are currently taking measures to strengthen their judicial capacity. Also noteworthy is the ongoing process of the prosecution and imprisonment of suspected pirates in "Puntland" and "Somaliland", where capacities and standards need enhancement.

54. Some prison rehabilitation projects are under way. Work on Hargeisa prison has been mostly completed, with the assistance of UNDP and the United Nations Office on Drugs and Crime, and the prison should open in mid-November 2010.

UNDP is facilitating work at Gardo prison and continues to provide the "Puntland" custodial corps with equipment and training, and to support a literacy project for inmates in "Puntland". The Office is undertaking work aimed at improving conditions and relieving overcrowding in the prison in Bossaso in "Puntland". UNDP is carrying out legal defence projects that include weekly visits to prisons in "Somaliland", "Puntland" and Mogadishu and representation of those on remand and appeal, including those suspected of piracy-related offences.

55. While a navy or coast guard is important to combat crimes at sea, Somalia has very limited capacity in this regard, and the State authority on land does not extend to local areas where pirates have bases. Other countries in the Horn of Africa region continue their efforts to build up and maintain basic naval forces and uphold harbour security. However, the strengthening of regional maritime security is imperative, and capacity-building initiatives, integrated with security sector development plans under UNPOS, need further enhancement.

56. A number of Member States and other organizations have provided training and capacity-building to Somali and regional coast guard officials, including Japan, the Republic of Korea and the League of Arab States.

57. One of the issues hindering the development of the Somali police and military is the late payment, or even non-payment, of salaries or stipends. There is a high risk that the non-payment of stipends could lead to desertion and to newly trained officers joining anti-Government militias or even pirate groups.

F. Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia

58. As I noted in my previous report (S/2010/394), in January 2010 the Contact Group on Piracy off the Coast of Somalia established a Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia. The purpose of the Trust Fund is to help defray the expenses associated with the prosecution of suspected pirates, as well as other activities related to the implementation of the Contact Group's objectives regarding the combating of piracy in all its aspects, including capacity-building and media initiatives. The Trust Fund can be replenished by both Member States and the private sector. It permits the payment of expenses associated with the prosecution and detention of suspected pirates, and provides for an emergency funding facility to offset the costs involved in prosecuting piracy suspects arrested at sea, including travel for witnesses, court equipment and transportation of suspects.

59. The Trust Fund has proved to be an efficient and rapid instrument for supporting mainly prosecution-related initiatives. I endorsed the creation of the Board of the Trust Fund pursuant to the provision contained in section V of the terms of reference for the Fund. The Board is composed of 10 Member States and three non-voting Board members (IMO, UNPOS and the United Nations Office on Drugs and Crime) and is chaired by the United Nations Under-Secretary-General for Political Affairs, with the United Nations Office on Drugs and Crime acting as fund manager. As at 11 October 2010, the Trust Fund had received a total of $2,930,758. As at 10 June 2010, the Board had unanimously recommended the disbursement of $2,413,373 to fund a total of seven projects supporting prosecution- and detention-related activities in Kenya, Seychelles and Somalia, as well as one project implementing parts of the communication strategy endorsed earlier by the plenary of

the Contact Group. I urge Member States and the maritime industry to contribute generously to the Trust Fund.

G. Further efforts to safeguard international navigation off the coast of Somalia

60. In May 2010, the IMO Maritime Safety Committee approved a mechanism to provide long-range identification and tracking of ships to warships operating in the Gulf of Aden and the Western Indian Ocean, thus significantly enhancing their awareness of the location of merchant shipping. IMO is promoting enhanced "maritime domain awareness", the effective understanding of anything associated with the global maritime domain that could have an impact on the security, safety and economy of, or the environment between, Seychelles, Madagascar, Mauritius, Comoros, the United Republic of Tanzania and Kenya. This could reduce the current burden on the international navies.

61. It has been observed that the ships that fall prey to pirates are often those that do not follow IMO guidance, including the industry-developed best management practices, and do not have a protection plan that can be certified against an industry standard. The IMO Maritime Safety Committee has promulgated the revised best management practices 3 as a Committee circular, thus ensuring wide distribution to the global shipping community.

62. The efforts made by Member States and the shipping industry to ensure the full observance of best management practices are essential to providing a first line of protection. Measures include changing individual ships' security plans; the design or modification of vessel structure so as to prevent pirates from, or delay them in, gaining control of the vessel in the event that they board; and the use of appropriate, non-lethal measures, including netting, wire, electric fencing, long-range acoustic devices and fire hoses, to prevent boarding.

63. It will also be important to establish international standards of training and certification for professional shipboard unarmed security consultants and third-party security providers that can be easily implemented. Certified vessel protection detachments, provided only by Member States, are being increasingly utilized, including for WFP- and UNSOA-chartered ships sailing close to the Somali coast. However, the risk of potential escalation needs to be mitigated through the undertaking of sufficient training and the application of the approved standard operating procedures. Moreover, measures should be taken to ensure a sufficient level of oversight and accountability for actions undertaken by any non-State actors involved in providing on-board security.

64. Many Member States reported that they had taken the necessary steps to ensure the widest possible dissemination of the relevant counter-piracy guidance and IMO recommendations to the shipping industry and others. Egypt reported that the Suez Canal Authority had distributed charts, maps and pamphlets in this regard. Belgium and the Republic of Korea reported that they had organized meetings and seminars on piracy during the reporting period.

65. The IMO Council decided in June 2010 that the theme for World Maritime Day 2011 should be "Piracy: orchestrating the response". This will help to raise awareness further and, it is hoped, to galvanize action towards the implementation of effective counter-piracy measures. It was agreed that greater attention needed to be given to the release of all hostages currently being held in Somalia.

66. On World Maritime Day, on 23 September 2010, an e-petition with close to one million signatures was presented to IMO to demonstrate the shipping industry's serious and universal concern about the piracy problem.

H. Addressing the root causes of piracy off the coast of Somalia

67. As I have said previously, acts of piracy and armed robbery at sea off the coast of Somalia are a symptom of the instability and lack of rule of law in Somalia. The Transitional Federal Government is attempting to establish its governance structures and the rule of law, including through the development of the security and justice sectors. However, these efforts are being hampered by the prevailing security situation. Pirate attacks are severely constraining the importation of goods into the country. Food prices have risen, and investment in the local economy has been affected as building materials and other raw materials have become less available. Unemployment is widespread. These conditions have led many young Somalis to join armed groups and militias or caused them to be drawn into criminal activity, including piracy.

68. The payment of ransoms to free hostages and ships has also created an incentive for Somalis to engage in piracy or to profit from the resulting piracy economy that exists in some places along the Somali coast. There is no official estimate of the sum of the ransom payments made over the reporting period, but experts assume it to be in the tens, if not hundreds, of millions of dollars. Of note is the fact that ship owners can take out private insurance that covers negotiation assistance and ransom payments in the event of a kidnap for ransom.

69. It has been observed that in places where pirates have established bases, the local economy revolves around the hijacking of ships. Piracy has become woven into the social and economic fabric of everyday life in those parts of Somalia. Realities on the ground have at times led to regional administrations turning a blind eye to pirate group activity. The international community is thus faced with a dilemma: on the one hand, the payment of a ransom is often the only feasible, available method of freeing hostages and ships; on the other hand, the aggregate economic effect has created a daunting challenge for alternative livelihood programmes and the socio-economic rehabilitation of coastal zones.

70. The root causes of piracy are found on land, and tackling them requires security on the ground. While integrated efforts at sea need to continue, it will also be important to achieve security in Somali territorial waters so as to deter pirates going to sea in the first place. Security sector development, especially with respect to the police and the coast guard, is vital, as is the development of meaningful alternative livelihoods and rehabilitation programmes.

V. Targeted sanctions

71. The Monitoring Group on Somalia established pursuant to Security Council resolution 1853 (2008) investigated and reported on the activities of Somali maritime militias engaged in piracy and armed robbery at sea. The Monitoring Group's report of 10 March 2010 (S/2010/91) described well-established piracy networks operating between Bossaso and Xarardheere, and identified an emerging

pirate militia operating from Laasqoray, a coastal town located in the eastern Sanaag region of Somalia. The numerous hijackings perpetrated by those militias between 2005 and 2009 constitute a threat to peace and security and are prohibited by paragraph 8 (a) of resolution 1844 (2008). In some cases, acts of piracy have also obstructed the delivery of humanitarian assistance, which is prohibited under paragraph 8 (c) of the same resolution. On the basis of its investigations, between July 2009 and March 2010 the Monitoring Group on Somalia identified and recommended four Somali pirate leaders for designation by the Security Council Committee established pursuant to resolutions 751 (1992) and 1907 (2009).

72. The Monitoring Group on Somalia and Eritrea established pursuant to resolution 1916 (2010), which began work in August 2010, will continue to investigate and report on pirate militias and their financiers, facilitators, active supporters and beneficiaries. Additional individuals may be recommended for designation by the Committee.

VI. Assistance provided to the World Food Programme and the United Nations Support Office for AMISOM

73. Ocean transport remains the primary, most cost-effective and fastest means of relief food delivery to Somalia. Currently, all food provided to Somalia by WFP and all transport in support of AMISOM from UNSOA arrives by sea.

74. At the peak of operations, from mid-2008 to mid-2009, WFP food deliveries averaged five to seven shipments into Somalia per month as a result of the availability of sufficient resources as well as naval escorts. An average of three shipments per month sailed for Somalia in 2010, as there was an "operational pause" in southern Somalia owing to resource constraints and an inability to operate in areas controlled by Al Shabaab.

75. The naval escorts provided since November 2007 for ships loaded with WFP food and other humanitarian assistance have protected deliveries to Somalia from pirate attacks, despite the increase in piracy in the region. I am grateful to Member States and regional groupings, specifically the European Union, for providing the escorts at no cost. Since my previous report, EU NAVFOR, NATO and the Russian Federation have provided warships to escort WFP shipping and UNSOA deliveries. Without such escorts, the WFP maritime supply route for the delivery of life-saving food assistance to 1.8 million vulnerable Somalis would be threatened. Since the start of the use of naval escorts, no ship loaded with WFP food heading to Somalia has been attacked by pirates.

76. A total of 586,256 metric tons of WFP food on 110 vessels have been escorted safely to Somalia since November 2007. Under European Union Operation Atalanta, 68 ships chartered by WFP Somalia, loaded with 366,065 metric tons, have been safely escorted. Additionally, five vessels chartered by WFP headquarters carrying 120,570 tons of food were safely escorted.

VII. Coordination and leadership role of the United Nations

77. The United Nations remains committed to addressing the problem of piracy and armed robbery at sea off the coast of Somalia in all its aspects. A central pillar

of its capacity to do so effectively is the ability to coordinate the various counter-piracy activities of the United Nations departments, programmes and specialized agencies. It is vitally important that the work of the Contact Group on Piracy off the Coast of Somalia, the piracy task force of the Prime Minister of the Transitional Federal Government naval operations and development programmes are integrated into an overall strategy for Somalia as a whole.

78. In the reporting period, the United Nations Integrated Task Force for Somalia established a sub-working group on piracy. It comprises 16 entities, including IMO, INTERPOL, the United Nations Office on Drugs and Crime and the Monitoring Group on Somalia, and is chaired by the Department of Political Affairs. The main purpose of the sub-working group is to share information, exchange ideas and ensure collaboration and coordination on the issue of counter-piracy.

VIII. Observations

79. During the reporting period, Member States have invested substantial efforts and resources in containing the threat of piracy and armed robbery at sea off the coast of Somalia, including by deploying patrolling naval ships and military aircraft. Also, more has been done to self-protect ships transiting the area. A number of cooperation mechanisms have been created which have led to an increased level of shared awareness and cooperation among international navies and military assets. I would like to express once again my appreciation to, inter alia, the European Union, NATO and all Member States participating in the protection at sea of WFP humanitarian shipments and United Nations vessels delivering logistical support to AMISOM.

80. While the effectiveness of naval disruption operations has increased and more pirates have been arrested and prosecuted, this has not stopped piracy. The trend of the increased levels of violence employed by the pirates as well as their expanding reach is disconcerting. I appeal to all ships traversing the high seas off the coast of Somalia to follow IMO recommendations and industry-developed best management practices, which have proved to significantly reduce the risk of being hijacked.

81. I welcome the significant steps taken to prosecute suspected pirates and imprison convicted offenders. I thank the countries that are currently shouldering this burden, in particular Kenya and Seychelles, and I welcome the intention of Mauritius to also become a regional centre for the prosecution of pirates. A number of Member States have provided resources for these activities, including through the Trust Fund mentioned earlier in the present report. However, much more needs to be done, including improving the collection of evidence and other investigative elements upon arrest at sea, building capacity in this area and finding long-term legal solutions that contribute to the deterrence of piracy. In this regard, I look forward to discussing the results of the recent missions of my Special Adviser on legal issues related to piracy off the coast of Somalia to concerned capitals as well as to Somalia and affected States in the region.

82. Together with Member States, INTERPOL and Europol are working to expose the work of international criminal networks that profit from piracy off the coast of Somalia. We need to know more about whether there are any connections to the financing of militias or insurgent groups in Somalia or elsewhere. Also, little is known about the impact of piracy on women, especially those living in areas where

the criminals operate. Investigations in these areas should continue and be strengthened. I urge the Monitoring Group on Somalia and Eritrea to continue to investigate and report on pirate militias and their financiers, facilitators, active supporters and beneficiaries.

83. Piracy in the region has had an immense impact on the economies of East Africa and also the wider world. International trade routes are threatened and goods in the region as well as in Somalia are becoming more expensive. This is made worse by the bleak state of the global economy. I therefore applaud the extensive work under way by Member States to coordinate international and bilateral responses to piracy, at both the military and political levels. The work of IMO through the Djibouti Code of Conduct and the Contact Group on Piracy off the Coast of Somalia has been very useful in this regard. I would therefore call upon all Member States, international organizations and non-governmental organizations to coordinate their efforts with those of IMO and the signatory States to the Djibouti Code of Conduct, the United Nations Office on Drugs and Crime and the Contact Group.

84. The severity of the problem off the coast of Somalia is a relatively recent phenomenon. Yet I am afraid that the problem will not only be with us for a long time to come, but also has the potential to become worse unless both Somalis and the international community address its root causes. There is an urgent need to combine the vital sea-based and judicial counter-piracy initiatives described in the present report with the search for a solution for Somalia as a whole, in support of the Djibouti Peace Agreement. Law enforcement is an essential requirement if piracy is to be stopped. It is also important that Member States provide funding and resources directly to the Transitional Federal Government, as these funds and resources will help to support the Government's efforts to fight piracy.

85. In this respect, I urge regional administrations such as those in "Somaliland" and "Puntland" to not be complacent about the activity of pirate groups and to strengthen their efforts to promote political and security stability equally. The Kampala Process is an important vehicle for coordinating counter-piracy policy and action in Somalia and should be invigorated and strengthened.

86. Maritime security for Somalia needs complementary action inshore, in the zone between the coast and international waters, in addition to the counter-piracy activities in the high seas. With regard to the security sector, vital work is under way by the Contact Group on Piracy off the Coast of Somalia to develop regional and Somali capacity on land and inshore waters. This must be linked to institution-building for the security sector, as set out in the Somalia security assessment. Work is needed to bring together the efforts of the Contact Group, the United Nations Office on Drugs and Crime and those charged under the Djibouti Peace Agreement with security sector reform. In addition, more thought needs to be given to the nexus of counter-piracy with development. It is vital that the Transitional Federal Government take steps to promote maritime security and the development of alternative livelihoods in the maritime environment. This should be coordinated with the security sector reform programme and other economic rehabilitation efforts. The Somali people, particularly the youth, need greater incentives to avoid succumbing to the lure of the pirate economy. I have instructed my Special Representative to further explore these issues with the Transitional Federal Government and other actors.

87. Finally, I would like to stress that the fate of the hundreds of kidnapped seafarers, the direct victims of Somali piracy, are of special concern to me. Their continued captivity, in some cases in confinement for extended periods, is unacceptable. In many cases, the victims' whereabouts are not known, and no independent entity is able to verify their state of health and well-being. I urge the Transitional Federal Government and regional administrations to make their best efforts to bring an end to this practice of kidnapping for ransom. I call on Governments, private companies and non-governmental organizations to explore how best to help secure their release.